IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

–

WRIT PETITION NO : 20389 of 2004

Between:

Chowgani Ansar Ali Khan, S/o. Stahar Khan,
R/o. Door No. 28/81-5, Kothapalli, T. Sundupalli Road,
Rayachoty Town, Post & Mandal, Cuddapah District.

..... PETITIONER

AND

The Station House Officer, Vemula Police Station,
Vemula, Vemula Mandal, Cuddapah District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring he seizure of the petitioner's lorry bearing No. A.P. 04-U-3918 by the respondent on 14-09-2004 on Pulivendula-Cuddpah Road Near Vemula, Vemula Mandal, Cuddapah District as illegal, arbitrary and violative of the fundamental rights guaranteed to the petitioner under Articles 14, 19 (1) (g) and 21 of the Constitution of India and consequently direct the respondent to release the Lorry bearing No. A.P.-04-U-3918.

Counsel for the Petitioner:MR.V.R.REDDY KOVVURI

Counsel for the Respondent : GP FOR HOME

The Court made the following :

O R D E R:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home for the respondent.

2. The Writ Petition is filed for release of the petitioner's lorry bearing No.AP-04-U-3918 which was seized by the respondent on 14-09-2004 on the road between Pulivendula-Cuddapah near Vemula, Vemula Mandal, Cuddapah District, on the ground that it was transporting a big granite stone and was believed to have been involved in transport of the stone in respect of which, there was neither permission nor evidence disclosing the payment of royalty. The petitioner, who claims to be the owner of the lorry, alleges that crime No.66 of 2004 was registered under Section 20(1)(v) of A.P.Forest Act and Section 379 of the Indian Penal Code and that he is nothing to do with any illegality, if at all, in respect of the seized granite stone or the alleged crime. His lorry was engaged by one Patan Sardhar Khan to transport a granite stone from Chittoor to Tadipatri and the engagement was accepted under the impression that the said individual had all the necessary permits to transport the same. The petitioner also pleads ignorance whether the seized granite stone is a Forest Produce or not. In the circumstances, he seeks release of the lorry. It is also stated that when he approached the Court of the Judicial First Class Magistrate, Pulivendula, Cuddapah District, seeking release of the vehicle after giving an undertaking that he would produce the vehicle as and when required for the purpose of investigation, his application was returned on 19-10-2004 and again returned on 29-10-2004 on the ground that such an application is not maintainable.

3. Section 20(1)(c)(v) of A.P. Forest Act 1967 has clearly no application as the provision sets out the penalties for trespass or damage in reserved forest and acts prohibited in such forest, any person, who, *inter alia*, quarries stones, burns lime or charcoal, shall be liable for penalties as specified in the provision.

4. Insofar as the petitioner is concerned, as the owner of the lorry cannot be said to have transported the stone in a reserved forest or to have otherwise caused damage in the reserved forest by mere act of transporting a stone in his lorry. However, as the vehicle may be required for the purpose of investigation or for further proceedings in respect of the seized granite stone, the petitioner is obligated to produce the vehicle as and when necessary for such investigation.

5. On the above analysis, the Writ Petition is disposed of directing the respondent to release the vehicle in favour of the petitioner, on the petitioner furnishing an undertaking to the respondent that he would produce the vehicle as and when necessary for the purpose of investigation.

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23-11-2004

Note :

C.C. in two weeks

(B/o)

Prv/Ksn

To

1. The Station House Officer,

Vemula Police Station,

Vemula, Vemula Mandal,

Cuddapah District.

2. 2 CCs to G.P. for Home,

High Court of A.P.,

Hyderabad(OUT).

3. 2CD copies